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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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AMERICAN GUARANTEE AND)
LIABILITY INSURANCE COMPANY)
)
Plaintiff,)
)
vs.)
)
GERALD M. LEMUS, Individually, and)
JOHN R. WATSON, Individually,)
)
Defendants.)
-----X	

Case No. 07-CIV-6038 (DAB)(THK)

**DECLARATION OF MARK G. LEDWIN IN SUPPORT OF
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

MARK G. LEDWIN, an attorney duly admitted to practice law before this Court, hereby declares under the penalty of perjury as follows:

1. I am a member of the firm of Wilson, Elser, Moskowitz, Edelman & Dicker LLP ("Wilson Elser"), attorneys for Plaintiff AMERICAN GUARANTEE AND LIABILITY INSURANCE COMPANY ("Plaintiff" or "American"), and as such I have personal knowledge of all facts set forth herein.

2. I submit this Declaration in support of Plaintiff American's motion for the entry of summary judgment against Defendants GERALD R. LEMUS ("Lemus") and JOHN R. WATSON ("Watson") (individually and together, jointly and severally, referred to as "Defendants").

3. Annexed hereto as **Exhibit A** are true and correct copies of all invoices for attorneys' fees and expenses incurred by Wilson Elser on behalf of American for the period of April 29, 2006 through July 25, 2007, in connection with the bankruptcy proceedings commenced by Independent Wholesale, Inc. in Florida bankruptcy court. The total amount of such invoices equals \$26,927.01 representing fees of \$24,435.50 and expenses of \$1,491.51.

4. Annexed hereto as **Exhibit B** are true and correct copies of all invoices for attorneys' fees and expenses incurred by Wilson Elser on behalf of American for the period of June 2, 2006 through August 31, 2007, in connection with the instant litigation against Defendants that was initially commenced in Florida state court, voluntarily dismissed without prejudice and then brought in this Court. The total amount of such invoices equals \$24,438.85 representing fees of \$23,011.70 and expenses of \$1,427.15.

5. In addition to the foregoing, Wilson Elser has incurred fees and expenses on behalf of American in the sum of \$12,000 in connection with the instant litigation and the preparation of this motion for summary judgment which have not yet been billed to American.

6. Under the express terms of the Indemnity Agreements executed by Defendants in favor of American, Defendants are jointly and severally liable to American "for any and all liability, loss, cost, damages, fees of attorneys, and/or other expenses which [American] ... may sustain or incur by reason of, or in consequence of, the execution of such bonds and any renewal, continuation or successor thereof." *See Cookson Aff.*, Exhibits 2 and 3.

7. Wilson Elser respectfully submits that its legal services were provided with the requisite level of skill and were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of problems, issues, and tasks addressed. Wilson Elser has charged its customary fees, which are reasonable based on the customary compensation

charged by comparably skilled practitioners in similar cases. The amount sought in compensation is in line with awards in similar cases and is commensurate with the professional standing, ability and expertise of Wilson Elser and the professionals who have participated in this case. Accordingly, the attorneys' fees and expenses requested herein reflect the reasonable value of the services provided by Wilson Elser to American and for which Defendants are liable to American.

8. In further support of American's motion, annexed hereto are true and correct copies of the following pleadings:

Exhibit C: Plaintiff's Complaint as filed in this action at Docket Number 1;

Exhibit D: Defendant Lemus' Answer to the Complaint which was served on the undersigned attorney but apparently never filed on the Court's Docket; and

Exhibit E: Defendant Watson's Answer to the Complaint which was also served on the undersigned attorney but apparently never filed on the Court's Docket.

WHEREFORE, for the reasons more fully set forth in American's Memorandum of Law submitted herewith, American respectfully requests that the Court grant the instant motion for summary judgment and enter a judgment directing Defendants Lemus and Watson, individually, jointly and severally, to post collateral security in the sum of \$562,122.57 representing the Bonded Obligations, together with the sum of \$63,365.86 representing the reasonable attorneys' fees and expenses incurred by American in connection with the Bankruptcy Matter and the instant litigation, for an aggregate total judgment amount of \$625,488.43, together with any and all other relief that this Court shall deem just and proper.

Dated: White Plains, New York
November 9, 2007

/s/ Mark G. Ledwin
Mark G. Ledwin, Esq. (ML-6873)